

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LAWRENCE PATRICK PHILLIPS

*

Plaintiff,

*

v.

* CIVIL ACTION NO. 2:05CV1159-T
(WO)

ANTHONY CLARK, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

The plaintiff, Lawrence Patrick Phillips [“Phillips”] filed this civil action pursuant to 42 U.S.C. § 1983 on 7 December 2005. On 14 December 2005 the court entered an order of procedure directing Phillips, *inter alia*, to inform the court of any change in his address. (Doc. No. 4.) On 22 December 2005, Phillips’ copy of the order was returned to the court marked “moved, left no forwarding address, return to sender” because he was no longer at the address he had provided to the court.

Consequently, the court entered another order on 27 December 2005 directing Phillips to provide the court with his present address on or before 9 January 2006. (Doc. No. 7.) Plaintiff was cautioned that his failure to comply with the court's 27 December order would result in a recommendation that this case be dismissed. (*Id.*)

On 6 January 2006, the envelope containing Phillips’ copy of the court’s 27 December order was returned to the court marked as undeliverable. It is clear that Phillips is no longer

residing at the address he provided to the court when he filed the instant complaint. Moreover, he has not provided this court with a new address. Thus, the court concludes that dismissal of the complaint is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice based upon Phillips's failures to prosecute this action properly and to comply with the orders of this court.

It is ORDERED that the Clerk of Court SEND a copy of this Recommendation to Defendants.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **23 January 2006**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of*

Prichard, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 9th day of January 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE